

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA : CRIMINAL NO. 19 - 638

v. :

FRED C. ARENA :

a/k/a “McCormick Foley,” :

a/k/a “John S. Mosby,” :

a/k/a “Fritz Coon Heydrich,” :

a/k/a “Big 88,” :

a/k/a “Fritz Arena,” :

a/k/a “Mosby S. John” :

GOVERNMENT’S MOTION FOR PRETRIAL DETENTION

The defendant, Fred C. Arena, lied repeatedly to federal agents, both in person and on a federal application for a national security clearance. By his lies, he sought to conceal his membership and participation in Vanguard America, an extremist group that used, or advocated the use of, force or violence to prevent others from exercising their constitutional rights. (He also lied about the prior repossession of his car.) Arena’s membership in Vanguard America was easily shown by his own social media posts, which included photos of Arena participating in Vanguard activities and posts by him discussing his membership and role in the group. Arena’s social media posts also show him to pose a threat to the safety of the community at large and in particular to religious minorities.

Because no condition or combination of conditions will reasonably assure the safety of the community at large, the government moves pursuant to 18 U.S.C. §§ 3142(e) and (f) for a detention hearing and his pretrial detention.

I. THE FACTS

In support of this motion, the government makes the following representations and proposed findings of fact:

A. Probable Cause and the Evidence in This Case

1. There is probable cause to believe that the defendant has committed the crime of false statements to government officials as charged in the Indictment.

2. The evidence in this case is strong.

On August 1, 2018, the defendant, Fred C. Arena, was interviewed at the Philadelphia Navy Yard, where he was employed by a contractor, by FBI special agents. The agents asked Arena whether he was a member of Vanguard America, an extremist organization. He said that he was not. On January 10, 2019, again at the Philadelphia Navy Yard, Arena completed online the necessary application to seek a national security clearance, which was a requirement for him to maintain his employment at the Navy Yard. The application was the Electronic Questionnaire for Investigations Processing, also called the Form SF-86. On that form, Arena was asked whether he had ever been a member of an organization that used, or advocated the use of, force or violence to prevent others from exercising their constitutional rights. He answered that he had not. In fact, Arena was an avowed member of Vanguard America, a white supremacist group that fits that description.

On the same application, Arena was asked whether he had property repossessed within the past seven years. He answered that he had not. In fact, Arena previously defaulted on a car loan, and his car was repossessed within the seven-year window.

Based upon these falsehoods, background investigators conducted a sworn, in person interview of Arena in Philadelphia on May 6, 2019. The investigators again asked Arena, directly, the same questions. He provided the same false answers.

Agents easily proved that Arena's answers were false. His membership in Vanguard America, and his participation in their activities, was proven by his many admissions on social media and in online conversations with FBI Online Confidential Employees. Arena also posted photos online of himself wearing Vanguard America patched apparel, participating in events surrounding the 2017 Unite the Right rally in Charlottesville, Virginia, including an apparent torch lit ceremony featuring a Nazi flag and the flag of Vanguard America. (Exhibit 1).

The repossession of Arena's car was also easily proven. Agents contacted the company that financed his purchase and learned that Arena financed a Chevrolet Silverado in November of 2014, but stopped making required payments on the car. As a result, the finance company hired a recovery company, which repossessed the car from a hotel parking lot on July 30, 2015.

B. Maximum Penalties

Arena faces a maximum possible sentence of up to 25 years in prison, with a three-year period of supervised release, a fine of \$1,250,000, and a \$500 special assessment. His guideline range is 0-6 months. The government anticipates that it will seek a significant upward variance at sentencing should he be convicted.

C. Criminal Record

Arena has no criminal history.

D. Community Ties/Employment

Arena was living in temporary housing at an area hotel prior to his arrest in this

case. He was an employee at the Philadelphia Navy Yard, however the government believes that job will not remain open to him. He is a lifelong resident of New Jersey. His community ties did not deter him from committing his crimes in this case, however.

E. Threats to Community Safety and Potential Witnesses

Arena's community ties also do little to ameliorate the threat to public safety that Arena poses. As the grand jury found in the Indictment, Arena was a member of Vanguard America, an extremist organization "that advocates or practices commission of acts of force or violence to discourage others from exercising their rights under the United States Constitution or any state of the United States." As part of his involvement in that group, by his own admission Arena participated in the August, 2017, Unite the Right rally in Charlottesville, Virginia, which devolved into street violence that ultimately resulted in one death and numerous injuries. Arena boasts on social media about his participation in street brawls during the rally and claims to have been part of a security team for the event.

Arena has also carried forward Vanguard's hateful philosophy in alarming social media postings, in which he has threatened violence against Jews and Muslims; advocated the lynching of women who date outside their race; and brandished various firearms.

In one menacing post, for instance, Arena posted a photograph of himself brandishing an AR-15 type rifle, and added the comment "coming to a synagogue near you." (Exhibit 2.) In another, Arena posted a photograph of himself brandishing a knife, and added the caption "FUCK YOU... church burning muzzies!! Come here I got something for you!!" (Exhibit 3.) In another, he posted a meme depicting a bleeding woman hanging from the neck with the caption "race mixing whores get the fucking rope!" (Exhibit 4.)

Arena's possession of firearms is indisputable; he has posted numerous pictures

of himself holding or carrying several different firearms, including two AR-15 style rifles, (Exhibits 5,6); one or two bolt action rifles (Exhibits 7,8 (shoulder slung)), and a .40 caliber Glock semiautomatic pistol (Exhibit 9). Agents have confirmed through official records that Arena purchased two pistols in Pennsylvania in 2017 (Exhibit 10), and that he has four other pistols registered to him in New Jersey. (Exhibit 11). Neither New Jersey nor Pennsylvania maintain records of longarm purchases, and so it is unknown how many such weapons Arena has. From business records of a federally licensed firearms dealer in Pennsylvania, the agents have learned that Arena bought two rifles and one shotgun there. The Agents have established that Arena no longer possesses one of his rifles and two of his pistols. When arrested, Arena told agents that a Glock pistol is stored in a safe in his mother's residence. The location of the remaining firearms, and even how many there are, is unknown.

Arena's social media posts also included his claims that he directly intimidated a man he believed to be a federal witness. On January 27, 2019, Arena wrote the following:

That's what got the feds so scared with (name withheld) because they thought we were going to kill him because they were listening in and found out we were trying to locate him which we did and we were asking around about where he goes does he go to any stores or shopping any supermarkets...

I drove to Charlottesville he was living right outside of Charlottesville for a while and I took pictures of myself in front of the sign for the town of Charlottesville and send it to him LOL that was it he went completely bananas.

(Exhibit 12).

II. CONCLUSION

When all these factors are viewed in light of the substantial sentence defendant faces, it is clear that no condition or combination of conditions will reasonably assure the safety of any other person or the community.

WHEREFORE, the government respectfully submits that its Motion for Defendant's Pretrial Detention should be granted.

Respectfully submitted,

WILLIAM M. McSWAIN
United States Attorney

s/Joseph A. LaBar
JOSEPH A. LaBAR
Assistant United States Attorney

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA : CRIMINAL NO. 19 - 638

v. :

FRED C. ARENA :

a/k/a “McCormick Foley,” :

a/k/a “John S. Mosby,” :

a/k/a “Fritz Coon Heydrich,” :

a/k/a “Big 88,” :

a/k/a “Fritz Arena,” :

a/k/a “Mosby S. John” :

PRETRIAL DETENTION ORDER

AND NOW, this day of , 2019, after an evidentiary hearing and argument of counsel for the government and the defendant, the Court finds that:

- (a) the government has proved by clear and convincing evidence that no condition or combination of conditions will reasonably assure the safety of other persons and the community, as required by Title 18, United States Code, Section 3142(e). The Court makes the following findings of fact:

This case is appropriate for detention under Title 18, United States Code, Section 3142(e) based on the following:

A. Probable Cause and the Evidence in This Case

1. There is probable cause to believe that the defendant has committed the crime of false statements to government officials as charged in the Indictment.
2. The evidence in this case is strong.

On August 1, 2018, the defendant, Fred C. Arena, was interviewed at the Philadelphia Navy Yard, where he was employed by a contractor, by FBI special agents. The agents asked Arena whether he was a member of Vanguard America, an extremist organization.

He said that he was not. On January 10, 2019, again at the Philadelphia Navy Yard, Arena completed online the necessary application to seek a national security clearance, which was a requirement for him to maintain his employment at the Navy Yard. The application was the Electronic Questionnaire for Investigations Processing, also called the Form SF-86. On that form, Arena was asked whether he had ever been a member of an organization that used, or advocated the use of, force or violence to prevent others from exercising their constitutional rights. He answered that he had not. In fact, Arena was an avowed member of Vanguard America, a white supremacist group that fits that description.

On the same application, Arena was asked whether he had property repossessed within the past seven years. He answered that he had not. In fact, Arena previously defaulted on a car loan, and his car was repossessed within the seven-year window.

Based upon these falsehoods, background investigators conducted a sworn, in person interview of Arena in Philadelphia on May 6, 2019. The investigators again asked Arena, directly, the same questions. He provided the same false answers.

Agents easily proved that Arena's answers were false. His membership in Vanguard America, and his participation in their activities, was proven by his many admissions on social media and in online conversations with FBI Online Confidential Employees. Arena also posted photos online of himself wearing Vanguard America patched apparel, participating in events surrounding the 2017 Unite the Right rally in Charlottesville, Virginia, including a torch lit ceremony featuring a Nazi flag and the flag of Vanguard America. (Exhibit 1).

The repossession of Arena's car was also easily proven. Agents contacted the company that financed his purchase and learned that Arena financed a Chevrolet Silverado in November of 2014, but stopped making required payments on the car. As a result, the finance

company hired a recovery company, which repossessed the car from a hotel parking lot on July 30, 2015.

B. Maximum Penalties

Arena faces a maximum possible sentence of up to 25 years in prison, with a three-year period of supervised release, a fine of \$1,250,000, and a \$500 special assessment. His guideline range is 0-6 months. The government anticipates that it will seek a significant upward variance at sentencing should he be convicted.

C. Criminal Record

Arena has no criminal history.

D. Community Ties/Employment

Arena was living in temporary housing at an area hotel prior to his arrest in this case. He was an employee at the Philadelphia Navy Yard, however the government believes that job will not remain open to him. He is a lifelong resident of New Jersey. His community ties did not deter him from committing his crimes in this case.

E. Threats to Community Safety and Potential Witnesses

Arena's community ties also do little to ameliorate the threat to public safety that Arena poses. As the grand jury found in the Indictment, Arena was a member of Vanguard America, an extremist organization "that advocates or practices commission of acts of force or violence to discourage others from exercising their rights under the United States Constitution or any state of the United States." As part of his involvement in that group, by his own admission Arena participated in the August, 2017, Unite the Right rally in Charlottesville, Virginia, which devolved into street violence that ultimately resulted in one death and numerous injuries. Arena boasts on social media about his participation in street brawls during the rally and claims to have been part of a security team for the event.

Arena has also carried forward Vanguard's hateful philosophy in alarming social media postings, in which he has threatened violence against Jews and Muslims; advocated the lynching of women who date outside their race; and brandished various firearms.

In one menacing post, for instance, Arena posted a photograph of himself brandishing an AR-15 type rifle, and added the comment "coming to a synagogue near you." (Exhibit 2.) In another, Arena posted a photograph of himself brandishing a knife, and added the caption "FUCK YOU... church burning muzzies!! Come here I got something for you!!" (Exhibit 3.) In another, he posted a meme depicting a bleeding woman hanging from the neck with the caption "race mixing whores get the fucking rope!" (Exhibit 4.)

Arena's possession of firearms is indisputable; he has posted numerous pictures of himself holding or carrying several different firearms, including two AR-15 style rifles, (Exhibits 5,6); one or two bolt action rifles (Exhibits 7,8 (shoulder slung)), and a .40 caliber Glock semiautomatic pistol (Exhibit 9). Agents have confirmed through official records that Arena purchased two pistols in Pennsylvania in 2017 (Exhibit 10), and that he has four other pistols registered to him in New Jersey. (Exhibit 11). Neither New Jersey nor Pennsylvania maintain records of longarm purchases, and so it is unknown how many such weapons Arena has. From business records of a federally licensed firearms dealer in Pennsylvania, the agents have learned that Arena bought two rifles and one shotgun there. The Agents have established that Arena no longer possesses one of his rifles and two of his pistols. When arrested, Arena told agents that a Glock pistol is stored in a safe in his mother's residence. The location of the remaining firearms, and even how many there are, is unknown.

Arena's social media posts also included his claims that he directly intimidated a man he believed to be a federal witness. On January 27, 2019, Arena wrote the following:

That's what got the feds so scared with (name withheld) because they thought we were going to kill him because they were listening in and found out we were trying to

locate him which we did and we were asking around about where he goes does he go to any stores or shopping any supermarkets...

I drove to Charlottesville he was living right outside of Charlottesville for a while and I took pictures of myself in front of the sign for the town of Charlottesville and send it to him LOL that was it he went completely bananas.

(Exhibit 12).

Therefore, IT IS ORDERED that the defendant be committed to the custody of the Attorney General for confinement in a correction facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal; that the defendant be afforded reasonable opportunity for private consultation with counsel; and that, on order of a Court of the United States, or on request of an attorney for the government, the person in charge of the corrections facility in which the defendant is confined deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

BY THE COURT:

HONORABLE DAVID R. STRAWBRIDGE
United States Magistrate Judge

CERTIFICATE OF SERVICE

I certify that a copy of the Government's Motion for Pretrial Detention, and Proposed Order was served via electronic court filing, on the following defense counsel:

Brian J. Zeiger, Esquire
1500 JFK Blvd
Suite 620
Two Penn Center
Philadelphia, PA 19102

s/Joseph A. LaBar
JOSEPH A. LaBAR
Assistant United States Attorney

Date: October 30, 2019